



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R03-OAR-2016-0368; FRL-9951-26-Region 3]

Determination of Attainment by the Attainment Date for the 2008 Ozone National Ambient Air Quality Standards; Pennsylvania; Pittsburgh-Beaver Valley

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to determine that the Pittsburgh-Beaver Valley, Pennsylvania marginal ozone nonattainment area (the Pittsburgh Area) has attained the 2008 ozone national ambient air quality standards (NAAQS) by the July 20, 2016 attainment date. This proposed determination is based on complete, certified, and quality assured ambient air quality monitoring data for the Pittsburgh Area for the 2013-2015 monitoring period. This proposed determination does not constitute a redesignation to attainment. This action is being taken under the Clean Air Act (CAA).

DATES: Written comments must be received on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R03-OAR-2016-0368 at <http://www.regulations.gov>, or via email to fernandez.cristina@epa.gov. For comments submitted at Regulations.gov, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from Regulations.gov. For either manner of submission, EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be confidential business information (CBI) or

other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (i.e. on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the “For Further Information Contact” section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <http://www2.epa.gov/dockets/commenting-epa-dockets>.

FOR FURTHER INFORMATION CONTACT: Maria A. Pino, (215) 814-2181, or by e-mail at pino.maria@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

A. Statutory Requirement – Determination of Attainment by the Attainment Date

Section 181(b)(2) of the CAA requires EPA to determine, within 6 months of an ozone nonattainment area’s attainment date, whether that area attained the ozone standard by that date.

Section 181(b)(2) of the CAA also requires that areas that have not attained the standard by their attainment deadlines be reclassified to either the next higher classification (*e.g.*, marginal to moderate, moderate to serious, etc.) or to the classifications applicable to the areas’ design values in Table 1 of 40 CFR 51.1103. CAA section 181(a)(5) provides a mechanism by which the EPA Administrator may grant a 1-year extension of an area’s attainment deadline, provided that the relevant states meet certain criteria.

B. The Pittsburgh Area and its Attainment Date

On July 18, 1997, EPA promulgated a revised ozone NAAQS of 0.08 parts per million (ppm), averaged over eight hours. 62 FR 38855. This standard was determined to be more protective of public health than the previous 1979 1-hour ozone standard. In 2008, EPA revised the 8-hour ozone NAAQS from 0.08 to 0.075 ppm (the 2008 ozone NAAQS). *See* 73 FR 16436 (March 27, 2008). In a May 21, 2012 final rule, the Pittsburgh Area was designated as marginal nonattainment for the more stringent 2008 ozone NAAQS, effective on July 20, 2012. 77 FR 30088. The Pittsburgh Area consists of Allegheny, Armstrong, Beaver, Butler, Fayette, Washington, and Westmoreland Counties in Pennsylvania. *See* 40 CFR 81.339.

In a separate rulemaking action, also published on May 21, 2012 and effective on July 20, 2012, EPA established the air quality thresholds that define the classifications assigned to all nonattainment areas for the 2008 ozone NAAQS (the Classifications Rule). 77 FR 30160. This rule also established December 31 of each relevant calendar year as the attainment date for all nonattainment area classification categories. Section 181 of the CAA provides that the attainment deadline for ozone nonattainment areas is “as expeditiously as practicable” but no later than the prescribed dates that are provided in Table 1 of that section. In the Classifications Rule, EPA translated the deadlines in Table 1 of CAA section 181 for purposes of the 2008 standard by measuring those deadlines from the effective date of the new designations, but extended those deadlines by several months to December 31 of the corresponding calendar year. Pursuant to a challenge of EPA’s interpretation of the attainment deadlines, on December 23, 2014, the United States Court of Appeals for the District of Columbia Circuit (D.C. Circuit) issued a decision rejecting, among other things, the Classifications Rule’s attainment deadlines for the 2008 ozone nonattainment areas, finding that EPA did not have statutory authority under

the CAA to extend those deadlines to the end of the calendar year. *NRDC v. EPA*, 777 F.3d 456, 464– 69 (D.C. Cir. 2014). Accordingly, as part of the final SIP Requirements Rule for the 2008 ozone NAAQS (80 FR 12264, March 6, 2015), EPA modified the maximum attainment dates for all nonattainment areas for the 2008 ozone NAAQS, consistent with the D.C. Circuit’s decision. The State Implementation Plan (SIP) Requirements Rule established a maximum deadline for marginal nonattainment areas of three years from the effective date of designation, or July 20, 2015, to attain the 2008 ozone NAAQS. *See* 80 FR at 12268; 40 CFR 51.1103.

In a final rulemaking action published on May 4, 2016, EPA determined that the Pittsburgh Area did not attain the 2008 ozone NAAQS by its July 20, 2015 attainment date, based on ambient air quality monitoring data for the 2012-2014 monitoring period. In that same action, EPA determined that the Pittsburgh Area qualified for a 1-year extension of its attainment date, as provided in section 181(a)(5) of the CAA and interpreted by regulation at 40 CFR 51.1107. The new attainment date for the Pittsburgh Area is July 20, 2016. *See* 81 FR 26697 (May 4, 2016).

II. EPA’s Analysis of the Relevant Air Quality Data

Under EPA regulations at 40 CFR part 50, appendix P, the 2008 ozone NAAQS is attained at a monitoring site when the three-year average of the annual fourth highest daily maximum 8-hour average ambient air quality ozone concentration is less than or equal to 0.075 ppm. This three-year average is referred to as the design value. When the design value is less than or equal to 0.075 ppm at each ambient air quality monitoring site within the area, then the area is deemed to be meeting the NAAQS. The rounding convention under 40 CFR part 50, appendix P dictates that concentrations shall be reported in ppm to the third decimal place, with additional digits to

the right being truncated. Thus, a computed three-year average ozone concentration of 0.0759 ppm or lower would meet the standard, but 0.0760 ppm or higher is over the standard.

EPA's determination of attainment is based upon data that has been collected and quality-assured in accordance with 40 CFR part 58 and recorded in EPA's Air Quality System (AQS) database. Ambient air quality monitoring data for the three-year period must meet a data completeness requirement. The ambient air quality monitoring data completeness requirement is met when the three-year average of the percent (%) of required monitoring days with valid ambient monitoring data is greater than 90%, and no single year has less than 75% data completeness, as determined according to appendix P of part 50. Tables 1 and 2 show the data completeness and ozone design values, respectively, for each monitor in the Pittsburgh Area for the years 2013-2015.

Table 1. 2013-2015 Pittsburgh Area Ozone Monitor Data Completeness

County	Site ID	% Data Completeness			2013-2015 Average % Completeness		Comment
		2013	2014	2015			
Allegheny	420030008	98	100	95	98		
	420030010	100			33		Site shut down in 2013 ^a .
	420030067	99	99	100	99		
	420031005	98			33	97	Site shut down in 2013 ^b .
	420031008		100	93	64		Site started 2014 ^b .
Armstrong	420050001	95	100	100	98		
Beaver	420070002	98	96	97	97		
	420070005	96	95	93	95		
	420070014	89	99	94	94		
Washington	421250005	98	100	97	98		
	421250200	98	98	100	98		
	421255001	100	98	94	97		
	421255200	99	99		66		Site shut down in 2015 ^a .
Westmoreland	421290006	98	38		45		Site shut down in July 2014 ^a .
	421290008	97	99	97	98		

Notes:

a. The monitoring site shutdowns and startups are included in the Pennsylvania Department of the Environment's (PADEP's) July 2014 Annual Network Plan. PADEP submitted the monitoring plan to EPA on June 27, 2014, and EPA approved it on November 21, 2014

b. The ozone monitor at monitoring site 420031005 was moved to monitoring site 420031008 in February 2014. The new location is about one quarter of a mile away from the previous location, and is at a similar elevation. The data from these sites will be combined to calculate a valid design value. This monitor move was included in the Allegheny County Health Department's (ACHD's) July 2014 monitoring plan, which ACHD submitted to EPA on July 1, 2014, and which EPA approved on November 21, 2014.

As shown in Table 1, several monitoring sites do not meet the completeness criteria set out in 40 CFR part 50, appendix P. However, the reasons for the completeness issues were either monitor shutdowns or startup, approved into PADEP's and ACHD's monitoring plans. Because three years of complete data is not possible at these monitoring sites, EPA does not look for valid design values at these sites. However, the circumstances are different for monitoring sites 420031005 and 420031008. The ozone monitor was moved from monitoring site 420031005 to monitoring site 420031008. These sites are within 0.25 miles of each other, and are at similar elevations. Therefore, EPA is able to consider the data at both monitoring sites as representing the same area, and can combine the data for these two locations to calculate a valid design value. When data from both locations is considered, the three-year average completeness is 97%.

Table 2. 2013-2015 Pittsburgh Area 2008 Ozone Design Values

County	Site ID	4th Highest Daily Maximum			2013-2015 Design Value (ppm)
		2013	2014	2015	
Allegheny	420030008	0.070	0.065	0.071	0.068
	420030010	0.075	-	-	-
	420030067	0.066	0.065	0.068	0.066
	420031005	0.076	0.042	-	0.073
	420031008	-	0.071	0.074	
Armstrong	420050001	0.078	0.068	0.070	0.072
Beaver	420070002	0.072	0.069	0.070	0.070
	420070005	0.072	0.070	0.067	0.069
	420070014	0.066	0.066	0.063	0.065
Washington	421250005	0.064	0.065	0.072	0.067
	421250200	0.067	0.064	0.069	0.066
	421255001	0.071	0.064	0.071	0.068
	421255200	0.063	0.062	0.045	-

Westmoreland	421290006	0.067	0.053	-	-
	421290008	0.070	0.064	0.069	0.067

Note: Only valid design values for monitors meeting the completeness criteria are shown.

Consistent with the requirements contained in 40 CFR part 50, EPA has reviewed the ozone ambient air quality monitoring data for the monitoring period from 2013 through 2015 for the Pittsburgh Area, as recorded in the AQS database. As shown in Table 2, all valid 2013-2015 design values are less than or equal to 0.075 ppm. Therefore, the Pittsburgh Area has attained the 2008 ozone NAAQS, considering 2013-2015 data.

III. Proposed Action

EPA evaluated ozone data from air quality monitors in the Pittsburgh Area in order to determine the area's attainment status under the 2008 ozone NAAQS. State and local agencies responsible for ozone air monitoring networks supplied and quality assured the data. All the monitoring sites with valid data had design values equal to or less than 0.075 ppm based on the 2013–2015 monitoring period. Considering that review, EPA has concluded that this area attained the 2008 ozone NAAQS based on complete, quality assured and certified data for the 2013- 2015 ozone seasons. Thus, EPA proposes to determine, in accordance with its statutory obligations under section 181(b)(2)(A) of the CAA and the provisions of the SIP Requirements Rule (40 CFR 51.1103), that the Pittsburgh Area attained the 2008 ozone NAAQS by the applicable attainment date of July 20, 2016.

This proposed determination of attainment does not constitute a redesignation to attainment. Redesignations require states to meet a number of additional criteria, including EPA approval of a state plan to maintain the air quality standard for 10 years after redesignation. EPA is soliciting public comments on the issues discussed in this document. These comments will be considered

before taking final action.

IV. Statutory and Executive Order Reviews

This rulemaking action proposes to make a determination of attainment on the 2008 ozone NAAQS based on air quality and, if finalized, would not impose additional requirements. For that reason, this proposed determination of attainment:

- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and

- does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this proposed rule, proposing to determine that the Pittsburgh Area attained the 2008 ozone NAAQS by its July 20, 2016 attainment date, does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because this proposed determination of attainment does not apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Ozone, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements.

Authority: 42 U.S.C. 7401 et seq.

Dated: August 12, 2016.

Shawn M. Garvin,
Regional Administrator,
Region III.

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